

City Council Introduction: **Monday**, September 30, 2002  
Public Hearing: **Monday**, October 7, 2002, at **1:30 p.m.**

Bill No. 02R-218

## **FACTSHEET**

**TITLE:** **STREET & ALLEY VACATION NO. 02010**, requested by Matthew and Briana Graham, to vacate the west 18' of Madison Street, a county road in Walton (a/k/a So. 117<sup>th</sup> Street), south of "A" Street.

**STAFF RECOMMENDATION:** A finding of conformance with the Comprehensive Plan.

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: Consent Agenda: 09/18/02  
Administrative Action: 09/18/02

**RECOMMENDATION:** A finding of conformance with the Comprehensive Plan (9-0: Carlson, Duvall, Steward, Krieser, Larson, Newman, Schwinn, Bills-Strand and Taylor voting 'yes').

### **FINDINGS OF FACT:**

1. The proposed street vacation is a County Road in the City three-mile jurisdiction and thus requires approval by both the City Council and the County Board.
2. The staff recommendation to find the proposed street vacation to be in conformance with the Comprehensive Plan is based on the "Analysis" as set forth on p.3-4, concluding that the street circulation is existing and will continue. The Comprehensive Plan does not show local streets or require a 60' right-of-way for local streets, thus the finding that this is generally in conformance with the Comprehensive Plan.
3. This application was placed on the Consent Agenda of the Planning Commission on September 18, 2002, and opened for public hearing. No one came forward to speak.
4. On September 18, 2002, the Planning Commission agreed with the staff recommendation and voted 9-0 to find the proposed street vacation to be in conformance with the Comprehensive Plan.
5. This proposal will be submitted to the Lancaster County Board of Commissioners after the City Council has taken action.

**FACTSHEET PREPARED BY:** Jean L. Walker

**DATE:** September 23, 2002

**REVIEWED BY:** \_\_\_\_\_

**DATE:** September 23, 2002

**REFERENCE NUMBER:** FS\CC\2002\SAV.02010

## LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

**P.A.S.:** Street and Alley Vacation #02010  
Madison Street (in Walton), south of "A" Street

**DATE:** September 4, 2002

**PROPOSAL:** To vacate a portion of the street adjacent to the petitioners lot to accommodate the existing house.

**LAND AREA:** 2,376 square feet, more or less (18' x 132').

**CONCLUSION:** The street circulation is existing and will continue. The Comprehensive Plan does not show local streets or require a 60' Right of Way for local streets, thus the finding that this is generally in conformance with the Comprehensive Plan.

<b><u>RECOMMENDATION:</u></b>	Generally Conforms to the Comprehensive Plan
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### **GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** The west 18' of Madison Street adjacent to Lot 19, in the northwest quarter of Section 31-T10N R-8-E, in Walton, Lancaster County, NE.

**LOCATION:** Generally located west of Madison Street (aka S. 117<sup>th</sup> Street) and one lot south of "A" Street.

**APPLICANT:** Matthew and Briana Graham  
6740 Panama Road  
Hickman, NE 68372  
(402) 792-3053

and

eleven electors residing within ten miles of the vicinity of the request.

**CONTACT:** Same

### **SURROUNDING LAND USE AND ZONING:**

North:	Residential	R-2, Residential
South:	Agriculture	AG
East:	Residential	R-2
West:	Residential and Agriculture	AG, R-2

**COMPREHENSIVE PLAN SPECIFICATIONS:** The Comprehensive Plan shows this area as Urban Residential, within the Tier I future service limit. Priority “B”. This is in the area of future city growth. The Plan states;

*“A Balanced Transportation System.* Transportation planning in Lincoln will be guided by the principle of balancing needs and expectations. It will recognize that transportation is a means to the goal of a unified, liveable, and economically strong community, and not an end in itself. Thus, the system will effectively move people and goods around the community, while minimizing impacts on established neighborhoods and investments. The concept of balance also applies to methods of transportation. While the system must function well for motor vehicles, it should also establish public transportation, bicycling, and walking as realistic alternatives now and in the future.” (Pg F 87)

**HISTORY:** The west 18' of Madison street abutting the lot to the north of this lot, was approved for vacation in September of **1994**.

The area was zoned A-2, Single Family Dwelling District until it was updated to R-2, Residential during the **1979** zoning update.

Walton was established in **1880**.

**UTILITIES:** There is expected to be an existing water line in the street, similar to the one noted in the vacation of the road to the north. Walton SID serves water to the town.

**TRAFFIC ANALYSIS:** Madison Street (117<sup>th</sup> Street) is a local street.

**ANALYSIS:**

1. This is a petition to the County Board for a vacation of the west 18' of Madison St. right-of-way adjacent to Lot 19 I. T. Walton, Nebraska. Lot 19 is a 143 x 72' lot with the narrow side to the street.
2. The dwelling currently exists into the road right-of-way. Street vacation would help clear title. If the building is ever replaced, front yard setbacks would apply from the new street right-of-way.
3. Madison Street is a county gravel street along the east side of the ROW and house.
4. The existing gravel road is not a direct connection to the grain elevator and appears to serve local residential traffic only.
5. The Subdivision design standards require a 60' R-O-W for local streets. The existing R-O-W is 66'. Approval of the vacation will create a local street of 48'.
6. A water line is expected to exist in the street adjacent to the east edge of the house - easement should be retained if appropriate.

7. The County Engineer does not object, due to the approval of the same request for the property to the north in 1994.
8. A reversion provision could be applied that the street right of way would be returned if the structure is ever removed. One alternative to vacation would be to grant the applicant use of and a lease to that portion of the right-of-way.
9. This is a County Road in the City three mile jurisdiction and will require approval by both the City Council and the County Board.

Prepared by:

Michael V. DeKalb, AICP  
Planner

# STREET & ALLEY VACATION NO. 02010

## CONSENT AGENDA

### PUBLIC HEARING & ADMINISTRATIVE ACTION

#### BEFORE PLANNING COMMISSION:

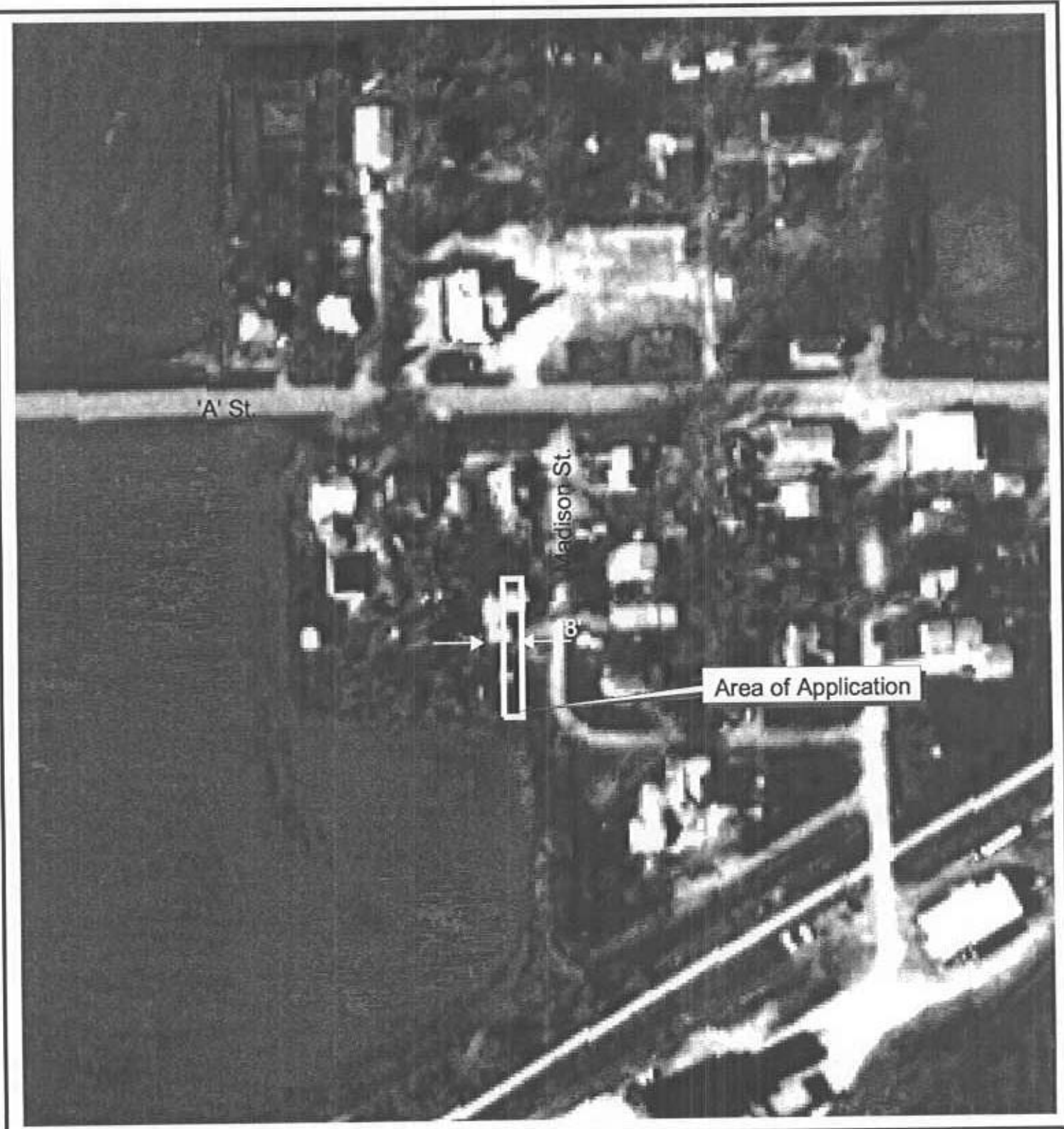
September 18, 2002

Members present: Carlson, Duvall, Krieser, Larson, Newman, Schwinn, Steward, Bills-Strand and Taylor.

The Consent Agenda consisted of the following items: **SPECIAL PERMIT NO. 1986 and STREET AND ALLEY VACATION NO. 02010.**

**Item No. 1.1, Special Permit No. 1986**, was removed from the Consent Agenda and scheduled for separate public hearing.

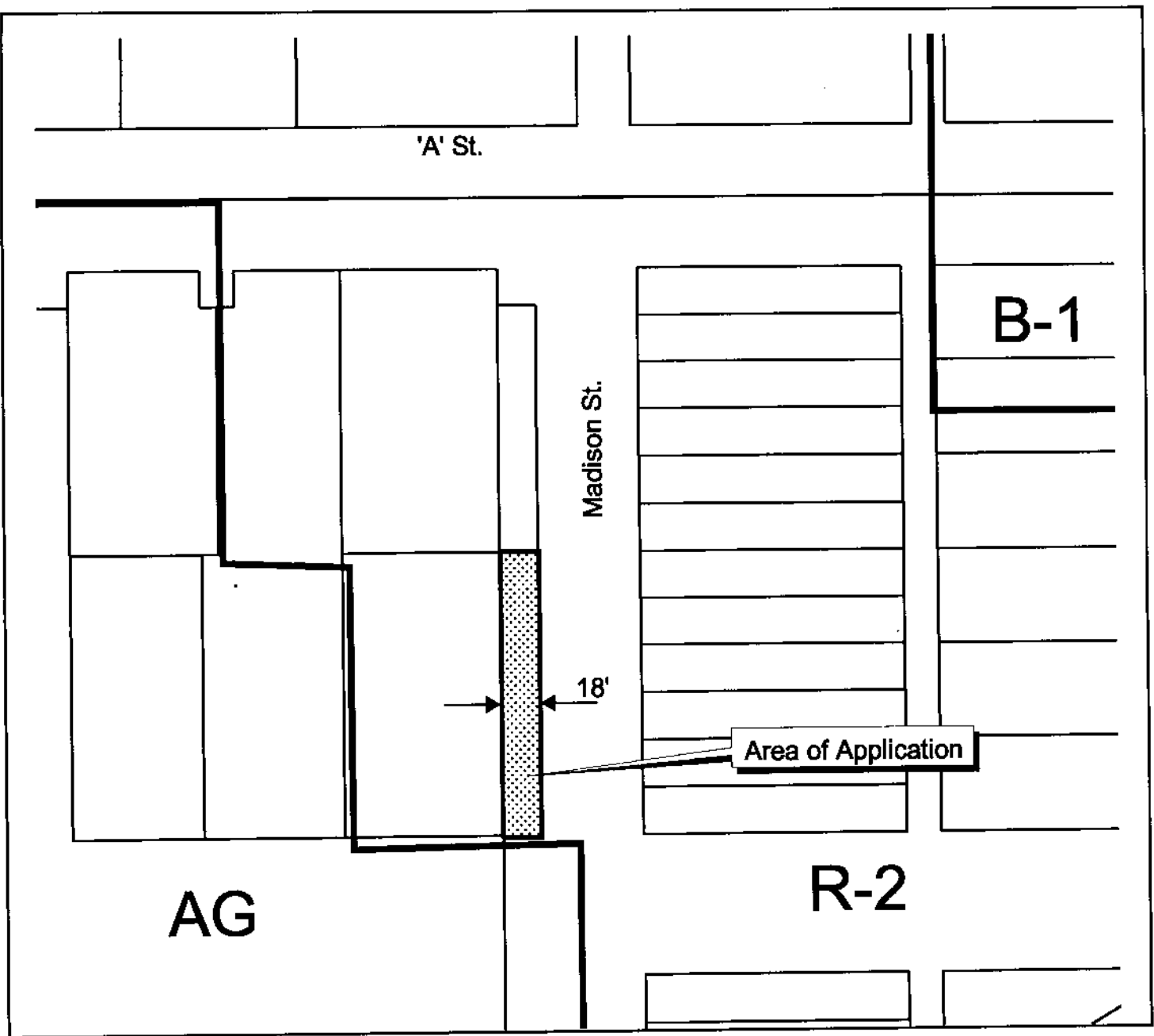
Bills-Strand moved to approve the remaining Consent Agenda, seconded by Steward and carried 9-0: Carlson, Duvall, Krieser, Larson, Newman, Schwinn, Steward, Bills-Strand and Taylor voting 'yes'.



**Street & Alley Vacation #02010**  
**S. 119th , 'A' Street & Madison St.**



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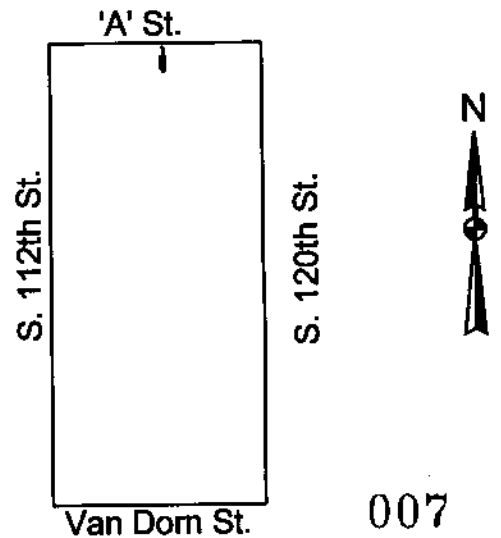
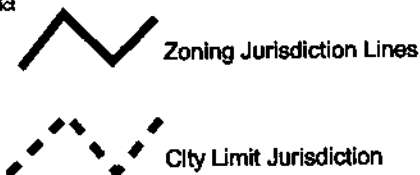


## Street & Alley Vacation #02010 S. 119th, 'A' Street & Madison St.

### Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile  
Sec. 31 T10N R8E



FILED

AUG - 2 2002

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF LANCASTER COUNTY, NEBRASKA

LANCASTER COUNTY CLERK

DIRECTING THE COUNTY ENGINEER )  
TO CONDUCT A STUDY REGARDING )  
VACATING A PORTION OF COUNTY )  
ROAD LOCATED ON MADISON STREET )  
JUST SOUTH OF "A" STREET ADJACENT )  
TO LOT 19 IN THE NW QUARTER OF SEC. 31 )  
TOWNSHIP 10 NORTH RANGE 8 EAST OF )  
THE 6<sup>TH</sup> P.M., LANCASTER COUNTY, )  
NEBRASKA )

RESOLUTION NO. 02-0092

WHEREAS, pursuant to Neb. Rev. Stat. §39-1723 (Reissue 1998), the Board of County Commissioners of Lancaster County, Nebraska (the Board), has received a petition signed by ten or more electors residing within ten miles of the road proposed to be vacated or abandoned and as a result must direct the person responsible for maintenance of the public roads in Lancaster County to conduct a study regarding the use being made of such public road and to submit in writing to the Board within thirty days, a written report upon the study made and his recommendation as to the vacation thereof pursuant to Neb.Rev.Stat. §39-1722; and

WHEREAS, the Board received information (See attached Petition marked as Exhibit "A"), that the public interest will be served by vacating a portion of Road Located on Madison Street which is just south of "A" Street adjacent to Lot 19 in the N.W. Quarter of Section 31, Township 10 North, Range 8 East of the 6<sup>th</sup> Principal Meridian, Lancaster County, Nebraska; and

WHEREAS, the Lancaster County Engineer is the person responsible for the maintenance of county roads in Lancaster County, Nebraska; and

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners of Lancaster County, Nebraska, that the Lancaster County Engineer, or such person designated by the Engineer, shall conduct a study of the use being made of the above-described portion of

AUG 15 2002

LANCASTER CITY/LANCASTER COUNTY  
PLANNING DEPARTMENT

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county road, and to submit in writing to the Board within thirty days, a report upon the study made and his recommendation as to the vacation thereof; and

BE IT FURTHER RESOLVED, that in accordance with the provisions of Resolution No. 3049, a copy of this Resolution shall be served upon the Lincoln/Lancaster County Planning Department, which shall report in writing within thirty days, unless a longer period is granted by the Board, as to the character and degree of conformity or nonconformity of the proposed vacation to the Comprehensive Plan.

DATED this 13 day of August, 2002.

BY THE BOARD OF COUNTY  
COMMISSIONERS OF LANCASTER  
COUNTY, NEBRASKA

APPROVED AS TO FORM  
this 14<sup>th</sup> day of  
August, 2002.  
David M. Johnson  
for GARY E. LACEY  
County Attorney

Barbara A. Heston  
James Heston  
Rob Heston  
Barbara Heston  
Kathy Campbell

FILED

JUL 31 2002

LANCASTER COUNTY CLERK

## PETITION FOR VACATION OF PUBLIC ROAD

The undersigned registered voters of Lancaster County, Nebraska reside within ten (10) miles of a segment of public road right-of-way described as:

West 18' of Madison Street, Adjacent to  
Lot 19 All in NW 31-10-8

a map of which is attached hereto, hereby petition the County Board of Lancaster County to vacate said segment of public road for the reason that:

Position of existing house in the technical roadway  
AS WAS A SIMILAR SITUATION VACATING MADISON ST.  
ADJACENT TO LOT 18.

And further request that a time and date be set for a public hearing before the County Board on this matter.

NAME	ADDRESS
1. Dayl Farmer	1540 S. 117th St, Walton, NE 6846
2. Dale L. Kahler	1521 S. 118TH ST - WALTON, NB-6844
3. Ruby H Kahler	1521 S. 118th St Walton nebr.
4. Don A Franke	11300 A St Lincoln 68520
5. Maurine Pearson	10401 A St Lincoln 68520
6. Lavern Gullett	1500 So. 105 Lincoln ne 68520
7. Eleanor Gullett	1500 So. 105 Lincoln ne 68520
8. Linda Hemmingsen	1600 So 105 Lincoln Ne 68520
9. Armita Lauer	10301 A St. Lincoln Ne 68520
10. Dayl Farmer	" " " " " "
11. Gladys Branku	10205 A St. Lincoln NE 68520
12.	
13.	
14.	
15.	

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## INFORMATION SHEET

This information sheet should be completed by each primary petitioner. The attached "Petition to Vacate with Release and Waiver of Rights and Title and Quit Claim to County of Lancaster, Nebraska" should also be completed according to the instruction contained in the Instruction Sheet.

1. Petitioner's Name Matthew & Briana Graham
2. Petitioner's Address 6740 Panama Rd, Hickman, NE 68372
3. Petitioner's Telephone Number 792-3053
4. Street/Alley/Public Way sought to be vacated West 18' of Madison Street adjacent to lot 19

5. Why are you seeking to have this street/alley/public way vacated?

The current condition of the house and lot/yard is in the roadway

6. What use(s) do you propose to make of the public way if vacated?

Home and yard space, similar to it's current condition

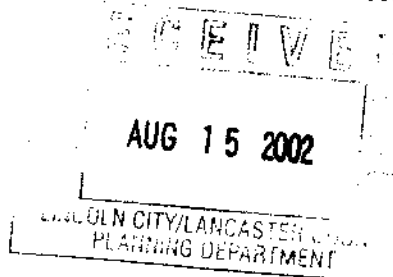
I (WE) DO INTEND TO PURCHASE (describe area intended to be purchased)

West 18' of Madison street adjacent to lot 19.  
OF THE VACATED PUBLIC WAY WHICH ABUTS THE PROPERTY OWNED BY ME (US) AS DESCRIBED IN THE PETITION TO VACATE PUBLIC ROAD.

☒ YES ☐ NO

*Prior to the public hearing the property will be appraised. The purchase price of the portion you intend to buy must be deposited with the County Clerk before receiving a deed to said property or the property will be sold to any other party willing to pay the purchase price. The vacation resolution will not become final until the full price of the entire public road proposed to be vacated has been paid.*

**BE SURE THAT THE PETITION TO VACATE PUBLIC WAY HAS BEEN COMPLETED AND IS ATTACHED TO THE INFORMATION SHEET.**



PETITION TO VACATE PUBLIC ROAD  
WITH RELEASE AND WAIVER OF RIGHTS  
AND TITLE AND QUIT CLAIM TO COUNTY  
OF LANCASTER, NEBRASKA

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\*  
\*  
\*  
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\*  
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(For Register of Deeds Use Only)

TO THE COUNTY BOARD OF THE COUNTY OF LANCASTER, NEBRASKA

The undersigned property owner(s) hereby ask and petition you to vacate the following described street/alley/public road, to-wit:

West 18' of Madison Street adjacent to  
lot 19 in NW 31-10-8

in the County of Lancaster, Nebraska, to reserve and retain in said street, alley, or other public way such title, rights, easements and privileges as it may deem necessary. In consideration of the vacation of the above described street, alley or other public road, we, and each of us, for ourselves, our heirs, administrators, successors, and assigns, hereby waive and release any and all claims, causes of action, title, rights and demands of every nature, known or unknown, which may accrue to us, or which we now have, or which we may hereafter have as a result of or resulting from such vacation of said street, alley, or other public way; and hereby remise and forever quit claim unto the County of Lancaster, Nebraska and to its successors and assigns forever, all right, title, interest, estate, claim and demand, both at law and in equity, of, in and to all of said street, alley or other public way, together with all and singular there hereditaments thereunto belonging.

TO HAVE AND TO HOLD the above described street, alley or other public way unto the County Lancaster, Nebraska and to its successors and assigns, so that none of the undersigned, nor any person in his, her, their or its name(s) or behalf, shall or will hereafter claim or demand any right or title to the said premises or any part thereof, but they and every one of them shall by these presents be excluded and forever barred.

Lot 19 All in NW 31-10-8'

State of Nebraska )  
 )ss  
Lincoln County )

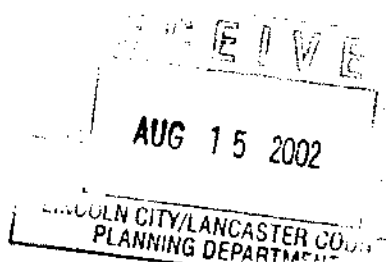
W. C.  
Biana Spang

Matthew P. Graham & Briana Graham

WITNESS my hand and notarial seal on July 3, 2002.

Michael A. Hefner, Notary Public

My commission expires: 11-27-05



# SEC.31-T10N

V Stevens Cr

Scale: 1 inch = 200'

THIS PLAT IS INTENDED TO SHOW AS ACCURATELY AS POSSIBLE THE RELATIONSHIP OF PARCELS BUT IS NOT INTENDED TO BE CONSTRUED AS SURVEY ACCURATE IN ANY MANNER.

"A" ST.

2435.5

COUNTY ROAD #351

755.08

LOT 28

3.26 ± Ac. Total

2.93 ± Ac. Net

#71-2863

#92-28633

#2000-48233

#2000-59243

330'

LOT 13

5.40 ± Ac. Total

4.78 ± Ac. Net

#92-28633

014

LOT 48

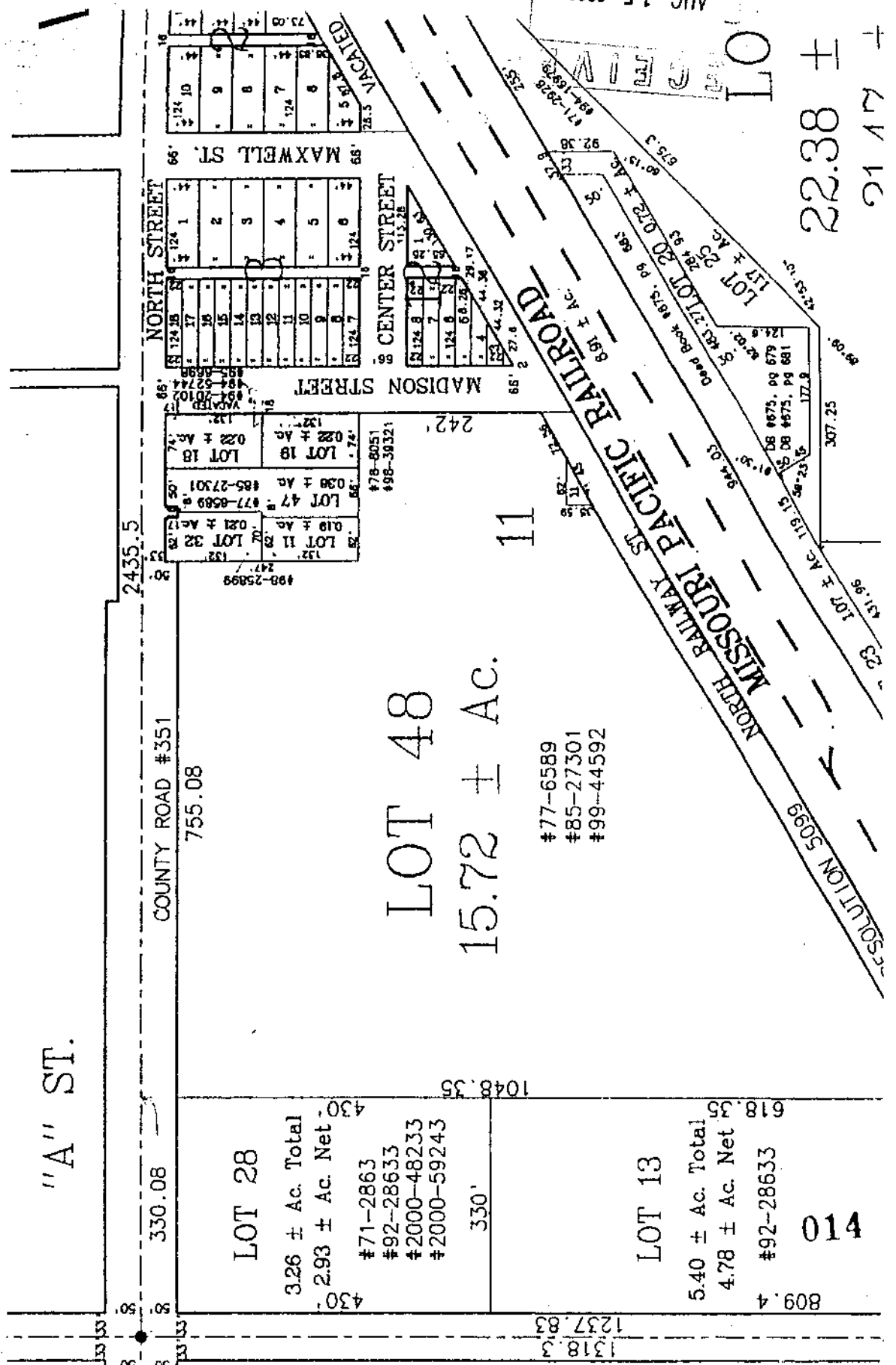
15.72 ± Ac.

#77-6589

#85-27301

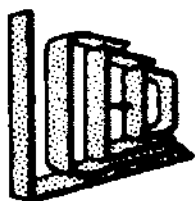
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PLANNING DEPARTMENT  
LINCOLN CITY/LANCASTER COUNTY  
AUG 15 2002

22.38 ±  
01 17 1



Lancaster

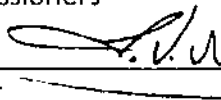
County

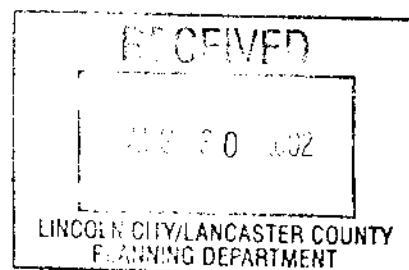
Engineering

Department

DON R. THOMAS - COUNTY ENGINEER

DEPUTY- LARRY V. WORRELL  
COUNTY SURVEYOR

DATE: August 29, 2002  
TO: Lancaster County  
Board of Commissioners  
FROM: Larry V. Worrell   
County Surveyor  
SUBJECT: RESOLUTION 02-0092  
STUDY OF VACATING A PART OF  
MADISON STREET (S 117<sup>TH</sup> & "A" STS)



This same issue was brought before the County Board in 1994 that abuts this property to the north. This previous issue was approved over my objections at that time.

Therefore, I will not object to the request, other than it is not in the best interest of the public, as was the other vacation in 1994.

cc: Mike DeKalb

LVW/cm  
VACATIONS/Madison Street #2.Mem

015